

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1420 – SB 1624

March 8, 2014

SUMMARY OF ORIGINAL BILL: Expands, from nine members to a minimum of nine members and a maximum of eighteen members, the Board of Appeals within the Department of Human Resources (DOHR). Requires the Commissioner of DOHR to establish travel compensation for the Board members. Establishes which party has the burden of proof at different levels of the appeals process. Requires DOHR to forward the record of each case to the Board members prior to meeting for review. Specifies that a complainant who does not appear in person waives the right to have the hearing at Step III and the Step II decision becomes final. Once orders are finalized, DOHR will send a copy to the administrative procedures division.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (013225): Deletes all language after the enacting clause. Expands, from nine members to a minimum of nine members and a maximum of eighteen members, the Board of Appeals within the Department of Human Resources (DOHR). Specifies members appointed pursuant to Chapter 800 of the Public Acts of 2012, and serving on March 1, 2014, shall continue to serve until the expiration of such members' terms. If the Commissioner of DOHR determines that additional members shall be appointed to serve on the Board, such members shall be appointed to serve an initial term of six years. Requires the Commissioner of DOHR to establish travel compensation for the Board members. Establishes which party has the burden of proof at different levels of the appeals process. Requires DOHR to forward the record of each case, which consists of the Step I complaint and decision, the Step II complaint and the Commissioner's decision to the Board members prior to the Step III meeting for preliminary review. Evidentiary attachments shall not be considered part of the record and shall not be submitted to the Board members prior to the Step III hearing. Specifies that a complainant who does not appear in person, electronically, or through the appearance of counsel waives the right to have the hearing at Step III. Requires the Board to enter a default judgment against the complainant and the Step II decision becomes final. Specifies decisions rendered by the Board do not require a signature of the administrative law judge to be considered final. Once orders are finalized, DOHR will send a copy to the administrative procedures division.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

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Assumptions for the bill as amended:

- According to DOHR, the Department revised the billing mechanism to the agencies involved in Board of Appeals cases. Previously, the Department would charge actual costs incurred plus an administrative fee. The Department recommended that agencies be charged a flat rate for each appeal. This recommended change to the fee structure resulted in reduced charges for departments.
- The number of Board members for each case will not change. DOHR is equalizing travel across all of the Board members so they will not be required to travel as frequently. The Department will continue to reimburse for 12 meetings each year and the total compensation for Board members will not exceed the current reimbursement.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise".

Lucian D. Geise, Executive Director

/lsc